

EXHIBIT 7

UNITED STATES DISTRICT COURT

CERTIFIED COPY

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

CHASOM BROWN, WILLIAM BYATT,)
JEREMY DAVIS, CHRISTOPHER)
CASTILLO and MONIQUE)
TRUJILLO, individually and)
on behalf of all others)
similarly situated,)

Plaintiffs,)

vs.)

GOOGLE LLC,)

Defendant.)

PATRICK CALHOUN, et al.,)
on behalf of themselves and)
all others similarly)
situated,)

Plaintiffs,)

vs.)

GOOGLE LLC,)

Defendant.)

IN RE GOOGLE RTB CONSUMER)
PRIVACY LITIGATION,)

Case Management Conference

NO. C 20-03664 YGR

Pages 1 - 54

Oakland, California

Friday, February 11, 2022

NO. C 20-05146 YGR

NO. C 21-02155 YGR

REPORTER'S TRANSCRIPT OF ZOOM WEBINAR PROCEEDINGS

(Appearances listed on next pages)

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transcript produced by computer-aided transcription.

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Friday, February 11, 2022

12:04 p.m.

P R O C E E D I N G S

(Zoom Webinar)

THE CLERK: Now calling civil case 20-3664-YGR,
Brown, et al. versus Google, LLC, et al.

We're going to be taking your appearances case by case but
calling them all, so if you -- counsel, starting with the
plaintiff, please state your appearance for the record.

MR. LEE: Sure. This is James Lee from Boies
Schiller Flexner, here on behalf of plaintiffs in the *Brown*
matter. With me today are Mark Mao and Erika Nyborg-Burch
also from Boies Schiller Flexner.

THE COURT: All right. Mr. Lee, are you going to be
the primary one speaking?

MR. LEE: Yes, Your Honor.

THE COURT: Okay. So then as we go through this, if
you're not speaking, I'll have you turn off your videos just
because there are so many squares on my monitor.

Okay.

And then for Google on the *Brown* case.

MR. LEE: I would be remiss if I didn't introduce the
rest of my team who are also on the Zoom. It's John Yanchunis
and Jean Martin from Morgan & Morgan. And Bill Carmody from
Susman Godfrey.

THE COURT: Okay.

1 I think it's meritorious. I hope you'll grant it.

2 **THE COURT:** All right. Then once I get the
3 opposition, I'll figure out whether I need anything more from
4 either of you. If not, you'll see a decision.

5 **MR. LEE:** Your Honor, in our response, would you like
6 us to attach the -- the prior briefing that was submitted to
7 Judge have an cue 11?

8 **THE COURT:** No.

9 **MR. LEE:** Okay.

10 **THE COURT:** I mean, you can give my docket numbers,
11 but I don't need it attached.

12 **MR. LEE:** Okay. Thank you.

13 **THE COURT:** Okay. Now, why is it that I have a
14 motion to revise a class definition that's opposed? This is
15 something you all can't agree on? What's the issue?

16 **MR. LEE:** Yeah, we were a little surprised that it's
17 opposed as well. We think this is a -- a pretty
18 straightforward issue. We aren't adding --

19 **THE COURT:** But what are you trying to do?

20 **MR. LEE:** We're just revising our class definition to
21 conform to discovery, Your Honor. We're not adding any
22 allegations or claims.

23 **THE COURT:** Are you narrowing it or expanding it?

24 **MR. LEE:** I think, Your Honor, we're really just
25 clarifying it. I can -- I can explain if you'd like.

1 The -- the first -- the first change is that we are
2 clarifying that we are dealing with a Chrome class and a
3 non-Chrome class, so Chrome is Google's browser. And then the
4 non-Chrome class are private browsing users that use other
5 browsers, so that's -- that's one distinction we wanted to
6 make.

7 The -- the second is that we're removing references to
8 Google Analytics and Google Ad Manager in the class definition
9 because discovery has shown that Google uses additional
10 trackers beyond just these two, which was the only two we knew
11 about when we -- when we crafted the initial class definition.

12 **THE COURT:** Okay. And why is it opposed?

13 **MS. TREBICKA:** Your Honor, our brief is currently
14 due -- our opposition is currently due on February 17th. The
15 parties have a stipulation for it to change to
16 February 25th -- 25, and it's not ruled on. But our basic
17 opposition is precisely because of what Mr. Lee said, which is
18 that the case is being expanded from two products to all
19 products within Google. And that is a change from what we've
20 operating under for the last 18 months.

21 **THE COURT:** Response?

22 **MR. LEE:** Yeah, I -- I think it's a -- it's a little
23 disingenuous to say that we're moving on all products, Your
24 Honor. We're just moving on the actual products that are used
25 by Google to track our class members without their consent.

1 So there are -- there are two main ones. We -- we think
2 there's -- there's clearly a third based on discovery thus far
3 AdSense -- and we believe there may be one or two more. And
4 that's based on what's already been produced in the case.

5 So I don't think Ms. Trebicka is correct in saying that
6 you know we are expanding the case such that now everything
7 under the sun is coming in. It's just the -- the specific
8 products or -- or technology that's been used to track our
9 class members that -- that we are already aware of through
10 discovery.

11 **MS. TREBICKA:** May I respond?

12 **THE COURT:** You may.

13 **MS. TREBICKA:** So it -- at a practical level, Your
14 Honor, the case when it was filed was limited to two products,
15 Google Ad Manager and Google Analytics. 18 months of
16 discovery proceeded just on the basis of scope of the case
17 being limited to those two products.

18 Discovery has now been pushed twice. We're at
19 discovery -- the new discovery deadline is March 4th. We
20 anticipate that if this motion were to be granted, it would
21 change the scope of the case, and it would also threaten to
22 up-end the discovery deadline and the rest of the schedule.

23 **THE COURT:** Have they asked for more discovery?

24 **MS. TREBICKA:** Not currently, Your Honor.

25 **MR. LEE:** (Shakes head.)

1 **THE COURT:** So what if they -- what I refuse to allow
2 them any more discovery, then what's the prejudice?

3 **MS. TREBICKA:** The prejudice could also be in the
4 amount of potential revenue that's related to their damages --

5 **THE COURT:** -- isn't an issue for me on terms of
6 class definition. The question is whether or not something
7 has been litigated. So if it's already been litigated, then I
8 don't understand what the objection is. You may not like it,
9 but if there's no prejudice in terms of what's actually been
10 litigated, then I don't understand how you have a strong
11 opposition.

12 **MS. TREBICKA:** So there is -- so if there is no new
13 discovery, absolutely no new discovery, that's one thing. We
14 haven't quite been told that so we were obviously not
15 necessarily aware of it. But --

16 **THE COURT:** Is there a -- are you willing to concede
17 and stipulate that you will not ask for any further discovery,
18 Mr. Lee?

19 **MR. LEE:** Your Honor, I'm going to let Mr. Mao answer
20 this 'cause I see him trying to jump in.

21 Go ahead, Mr. Mao.

22 **MR. MAO:** Good afternoon, Your Honor. Mr. Mao over
23 at Boies Schiller Flexner. Sorry. I'm just trying to make
24 sure the echo's not on my -- my end, Your Honor.

25 Is this loud enough?

1 **THE COURT:** Yes.

2 **MR. MAO:** Okay.

3 So if you look at the complaint, the complaint originally
4 alleged that Google was --

5 **THE COURT:** I asked a specific question, Mr. Mao, and
6 I'm asking for an answer to that question.

7 **MR. MAO:** Understood.

8 So we -- the issue here is whether pending discovery, Your
9 Honor, would with cover the products in which Google --

10 **THE COURT:** -- you asking for more discovery --

11 **MR. MAO:** No.

12 **THE COURT:** -- and will you stipulate?

13 **MR. MAO:** No new discovery.

14 (Simultaneous colloquy.)

15 **THE COURT:** Will you stipulate to no more discovery
16 and standing on what you have?

17 **MR. MAO:** It's -- well, Your Honor, we're asking to
18 stand on what has already been issued. Most of the discovery
19 at issue has already been issued for months. And what we're
20 fighting over, Your Honor, is whether or not the new products
21 which are actually covered by the documents that Google has
22 produced -- so Google has recognized these products as being
23 responsive.

24 **THE COURT:** Mr. Mao, you're going to have a hard time
25 in front of me if you can't answer simple questions.

1 Discovery closes March 4th. Right?

2 **MR. MAO:** Yes, Your Honor.

3 **THE COURT:** Okay. So are you asking for more
4 discovery? Are you trying expand the nature of discovery?

5 **MR. MAO:** No, Your Honor. We're standing on the
6 discovery already served --

7 **THE COURT:** -- Trebicka, what's the issue?

8 **MS. TREBICKA:** So, Your Honor, the issue is this:
9 There is certain discovery that has already been served. And
10 it's so broad that it encompasses topics, importantly
11 products, that we believe are outside of the scope. So we
12 have responded to that discovery with the understanding that
13 the scope is limited to Google Ad Manager and Google
14 Analytics.

15 This issue arose because in the context of responding and
16 negotiating 30(b)(6) testimony, plaintiffs wanted to expand it
17 to something that we thought was unreasonable and almost
18 impossible to prepare a 30(b)(6) on, so this is -- so it will
19 actually mean more discovery despite the fact that it will --
20 it will not mean new issuing of discovery because the scope of
21 a -- of the ambiguous and vague discovery requests that have
22 already been served will be expanded.

23 **MR. MAO:** Would you like me to respond, Your Honor?
24 Or --

25 **THE COURT:** Go ahead.

1 **MR. MAO:** So, Your Honor, the discovery is not being
2 expanded because we are merely following up on the very
3 products Google has produced in response to the discovery that
4 has already been served.

5 Insofar as Google -- there's really two products at issue,
6 Your Honor. It's Google Search, which is also being tracked
7 off of Google.com when people are incognito, and then AdSense,
8 which as Mr. -- Mr. Lee had referenced.

9 Those things were identified by us because they were
10 identified by Google in response to discovery, saying that
11 these were also things in which Google was tracking users on.

12 So we accordingly, of course, in response to what Google
13 thought was responsive, believe that that belongs in the case.
14 There is no prejudice because they have been producing
15 documents on that. What they want to do is they want to
16 exclude that notwithstanding the fact that their own engineers
17 and custodians recognize this as responsive.

18 **THE COURT:** And this relates to all of the discovery
19 disputes that are still pending before Judge van Keulen?

20 **MR. MAO:** Yes, Your Honor.

21 **MS. TREBICKA:** To a fair number of them.

22 **THE COURT:** Well, I will talk to her about the scope.

23 I would suggest that you all focus on prejudice and the
24 scope of discovery in terms of your briefing.

25 **MR. MAO:** (Nods head.)

1 safe. Enjoy the Super Bowl if you like football.

2 And I'm sure I will see all or some of you at some point,
3 hopefully some day in person. But until then, we'll see you
4 on Zoom.

5 Okay. Everybody take care.

6 (Simultaneous colloquy.)

7 **MS. PRITZKER:** Thank you very much, Your Honor.

8 **COUNSEL:** Thank you very much, Your Honor.

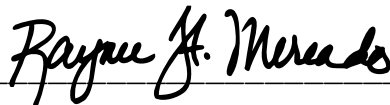
9 **THE COURT:** We're adjourned.

10 (Proceedings were concluded at 1:21 P.M.)

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14 **CERTIFICATE OF REPORTER**

15
16 I certify that the foregoing is a correct transcript
17 from the record of proceedings in the above-entitled matter.
18 I further certify that I am neither counsel for, related to,
19 nor employed by any of the parties to the action in which this
20 hearing was taken, and further that I am not financially nor
21 otherwise interested in the outcome of the action.

22
23 

24 Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

25 Tuesday, February 15, 2022